

Application No.: 10/721690

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REMARKS

Claims 1 to 26 are pending. Claims 1, 9, 13, 14, 15, 17, 18, and 23 are amended. No new claims have been added.

Claim Objections

Examiner objected to claim 18 as being improperly written as a dependent claim. Claim 18 has been corrected.

§ 112 Rejections

Claims 9, 13-15 stand rejected under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

Applicant has amended claims 9, and 13-15 to address any issues Examiner raised. Particularly, all references to "implementing a strategy", which Examiner considered vague, have been struck. Claim 14's language, "in view of the commodity profile," which Examiner rejected as vague, has been amended to read "based on the commodity profile."

Applicant hereby submits that with these amendments, Examiner's rejection of claims 9, and 13-15 under 35 USC § 112, second paragraph, have been addressed, and that the rejection should be withdrawn.

§ 101 Rejections

Claims 15 and 16 stand rejected under 35 USC § 101, because the claimed invention is directed to non-statutory subject matter. Examiner referenced portions of section 2106, which relates to computer-implemented inventions, as authority for the rejection. Applicant respectfully points out that with respect to § 101, section 2106 is self-limited to "inventions implemented in a computer and inventions employing computer-readable media." (§ 2106, section I, first paragraph). Claims 15 and 16 are not, as claimed, limited to implementation on a computer, nor necessarily employ computer-readable media.

Examiner notes that the proper § 101 test is whether the invention produces a useful, concrete and tangible result. (Office Action, page 4, line 2). In claims 15 and 16, it is clear,

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especially in light of the amendment to claim 15 with respect to Examiner's § 112 rejection (above), that the claimed invention does result in a useful, concrete and tangible result: namely, generation of market, commodity and supplier profiles and the subsequent procurement of packaging material.

The useful, concrete, and tangible nature of this invention as claimed is clear, especially in light of the modifications referenced earlier, wherein Applicant struck underlined portion of the claim "implementing a strategy for procurement of the packaging material based on the commodity profile, the market profile and the supplier profiles." Applicant believes this modification removes any doubt that this invention is directed toward a useful, concrete and tangible result.

Applicant respectfully requests Examiner to withdraw this rejection.

§ 102 Rejections

Claims 1-26 stand rejected under 35 USC § 102(e) as being anticipated by Damji, Pub. No. US2003/0200111 A1. Claims 1, 15, 17, and 23 have been amended. All other claims depend from one of these amended claims.

Damji concerns providing a precise calculation of the shipping costs to be incurred in a future transaction based on a database of information containing the packaging and shipping requirements of a product. See, e.g., paragraphs 1 and 5. The database is loaded with various information about the product to be shipped, such as how fragile it is (paragraph 41), whether there are any 3rd party packaging requirements that must be considered (paragraph 42), the packaging method (paragraph 49), and labor rates for packers (paragraph 51). If there is enough data, the invention will output the precise amount that the packaging and shipping will cost (paragraph 104). In essence, Damji describes meticulously tracking most variables that go into the cost of packaging and shipping a product. With this information Damji describes generating actual costs of packaging and shipping, not merely estimates, before a product is purchased.

Importantly, Damji is not focused on procurement of packaging materials where the procurement is at an enterprise-wide level (as "enterprise" is now more specifically defined in each independent claim). Rather, to the extent procurement is mentioned in Damji, it is the routine type of procurement, where a company looks at its inventory, and when supplies get low, an order is

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placed (Examiner referenced several places where procurement is described, but upon closer study Applicant suggests it is only in paragraph 54 (not referenced by examiner))¹.

It is precisely this type of reactionary procurement practice that has resulted in a problem Applicant's invention aims to address (and as further described in Applicant's Background section). For a small company, routine "order when supplies are low" procurement practices are acceptable. But for an enterprise on a much larger scale, where information is decentralized across a plurality of manufacturing facilities, each facility possibly producing a plurality of products for a plurality of business units, routine procurement of the type referenced by Damji in passing (buy materials when supplies at a particular location get low), results in the situation described in Applicant's background section, namely where organizations "deal with too many suppliers, have too many low-cost, low-volume purchasing transactions for packaging materials, have too few formal contracts in place, have significant hidden costs associated with packaging, and are generally unable to effectively leverage enterprise-wide buying power for procurement of packaging material and processes." (Applicant's paragraph 5).

The centralized packaging data management system disclosed by Applicant, in contrast, "provides a centralized resource for aggregation and maintenance of packaging data specifying the packaging material actually used by an enterprise." It is admittedly simple to aggregate and maintain packaging data for a small company, then use this information to proactively manage costs associated with future purchases. For a larger enterprise, however, it is not so simple, as described in Applicant's patent application.

To make this distinction clear, each independent claim (1, 15, 17, and 23) has been further limited such that "enterprise" is further defined as "having a plurality of business units that produce a plurality of different products at a plurality of different manufacturing facilities." In

¹ Examiner referenced Damji paragraphs 17-19, and Figures 5 and 6 with respect to procurement. Damji's Paragraphs 17-19 merely describe various data points useful in estimating what it will cost to ship a package. Damji doesn't teach nor suggest using this information to purchase materials. Figure 5 "illustrates a table of packaging specifications" (paragraph 43), but does not teach or suggest this be used to manage enterprise material acquisition or costs. Rather, this table shows the types of data used to calculate the cost of packaging materials to ship a given product. Figure 6, similarly, is an exemplary bill of materials required to package a given order (see paragraph 47), presumably using the models of Figure 5. Paragraph 54, however, which was not cited by Examiner does mention that a user may "directly procure materials from a packaging materials distributor electronically," but this procurement is of the well-known, routine type: buy more when supplies at a location get low.

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this way, the focus of Applicant's invention is more clearly focused on enterprises of a size and scope where traditional procurement practices are not efficient.

Claim 1 is further limited such that the electronic report correlating (1) costs of packaging materials purchased by the plurality of business units at the plurality of manufacturing facilities for the plurality of different products with (2) one or more characteristics of the selected one of the types of packaging materials used by the enterprise. Damji is not concerned with generating a report that correlates enterprise-wide costs for strategic *subsequent* procurement of materials at reduced costs. Rather, Damji is concerned with allocation of costs to customer transactions, i.e., recharging the actual cost.

Each independent claim stands amended. It is believed these amendments address Examiner's issues with Applicants invention in light of Damji.

The issue fundamental to the rejection of claims 1-26 under 35 USC § 102(e) as being anticipated by Damji has been addressed. Consideration of the amended claims is requested, followed by withdrawal of the rejection.

Interview

Applicant would like to thank the Examiner for discussing the Office Action via telephonic interview on January 24, 2006. Mr. Fadey Jabr (Examiner) and Mr. John Hayes (Mr. Jabr's Supervisor) participated in the interview. During the telephonic interview, the following topics were discussed: Claim rejections under 35 USC 102, claim rejections under 35 USC 101, and claim rejections under 35 USC 112. During the interview, the Examiner agreed to consider the application in view of a response from the Applicant.

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In view of the above, it is submitted that the application is in condition for allowance.
Reconsideration of the application is requested.

Allowance of claims 1-26, as amended, at an early date is solicited.

Respectfully submitted,

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Date

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